

Investigative Report

Austin Energy: Misuse of City Resources

June 2017



We found evidence indicating that Brent Curry, IT Geospatial Analyst Senior, Austin Energy, misused City resources for real estate investment and management activities.

Contents

Allegation and Background	2
Investigation Results	3
Appendix A - Subject Response	5
Appendix B - Office of City Auditor’s Response to Subject Response	7
Appendix C - Management Response	8
Investigation Criteria	9
Methodology and CAIU Investigative Standards	10

Cover: Aerial view of downtown Austin,
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Allegation

In 2016, the Office of the City Auditor received an allegation that Brent Curry, an IT Geospatial Analyst Senior in Austin Energy’s Electric Service Delivery Division, misused City time and resources to operate his secondary employment business. Specifically, the informant alleged the information summarized below:

Misuse of City Resources:

- It was alleged that Brent Curry “owns real estate properties that he rents out through his company” and that “he uses the computer and phone during work hours to communicate with the manager of his properties, as well as to look up information for his properties.”
- It was also alleged that Brent Curry “comes [to the office] during the weekend to use the City’s fax machine for his business.”

Background

According to Austin Energy, the objective of the Electric Service Delivery Division is “to build, operate and maintain the transmission and distribution systems in the Austin Energy service territory in order to provide clean, reliable and affordable electric service to our customers.”

Brent Curry works as an IT Geospatial Analyst Senior in the Electric Service Delivery Division at Austin Energy. Curry began working for the City in 1992. Curry’s responsibilities include, among other tasks, researching and interpreting source records and documents, responding to requests for information from internal and external customers, and installing new software releases and/or upgrades.

Investigation Results Summary

We found evidence indicating that Brent Curry, IT Geospatial Analyst Senior, Austin Energy, misused City resources for real estate investment and management activities.

Finding Misuse of City Resources

We found evidence, including Curry's own admission, indicating that he misused City resources, including his computer, email account, and telephone for real estate investment and management activities. The evidence is summarized below.

Curry appears to be affiliated with (or invested in) numerous real estate-related Limited Liability Companies (LLCs) and owns several rental properties. According to documents filed with the Texas Secretary of State, Curry is the Director of an LLC. Travis Central Appraisal District records showed that Curry had an ownership interest in at least three rental properties during the scope of our investigation. When interviewed by our office, Curry stated that he owns several rental properties.

A forensic search of Curry's computer revealed activities related to real estate as summarized below.

From July 2015 to July 2016, there were at least 200 messages in Curry's City email account, including:

- emails to partners discussing real estate-related business at various properties;
- emails with his property manager; and
- emails relating to potential investment activities involving numerous LLCs.

At least 30 files originated from City printers/scanners, including:

- an agreement to a dispute resolution procedure involving an LLC of which Curry is a "Managing Member;"
- a property inspection waiver disclosure for one of his properties;
- a uniform residential loan application for one of his properties; and
- documents relating to potential investment activities involving 15 LLCs.

At least 10 files were on the hard drive of Curry's City computer, including:

- an appraisal of a rental property owned by Curry;
- tax-related documents for a real estate investment; and
- an investor suitability questionnaire.

At least 30 telephone calls were made or received on Curry's City telephone with possible business associates, including calls with:

- Curry's property manager; and
- a wealth management professional involved in Curry's real estate investments.

The forensic search also indicated that Curry received numerous

Investigation Criteria:

"No City official or employee shall use City facilities, personnel, equipment or supplies for private purposes, except to the extent such are lawfully available to the public."

City Code: Standards of Conduct §2-7-62 (J)

See Investigation Criteria for More Details

solicitations to participate in real estate investments on his City email. A review of Curry's phone records showed that Curry made or received telephone calls to a "Managing Member" who is an immediate family member. However, while we found evidence of emails discussing real estate with this family member, we could not determine the nature of the telephone calls. Curry described the calls as personal in nature.

When interviewed by our office, Curry admitted to using City resources including his computer, email account, telephone, and scanner to pursue real estate activities both during and after working hours.

Curry's supervisor stated that she was aware of Curry investing in rental properties, but she had not witnessed Curry misusing City resources for that purpose. Curry's manager stated that he was aware that Curry did real estate related work, but he did not know any more details.

Curry's misuse of City resources for real estate investment and management activities appears to constitute a violation of the following criteria, as detailed in the Investigation Criteria section:

- City Code § 2-7-62 Standards of Conduct - (J)
- Administrative Bulletin 98-06: Acceptable Internet Use
- City Personnel Policy - (G) Use of City Resources

Appendix A - Subject Response

I have worked as a permanent employee since 2/7/1992, this is the only time my performance and loyalty has been questioned.

When the auditor asked about my real-estate investments, I was out on vacation and had no representation. I stated I owned three single family rental properties that I do not operate or manage. I also stated that I am a silent, passive investor in several REITs or multi-family LLCs. I stated that I have randomly used AE phone, email and printer during my free time (while taking a break) and before or after my flexible schedule. I explained that I had worked overtime on weekends and in the evenings. Once it was brought to my attention that I should not be printing anything of a personal nature on the City's printer I brought in a ream of paper to reimburse the City.

Our attorney set up a personal LLC for the sole purpose to protect our family from litigation, my wife and I are the only members. I invest in real estate and pay others to manage and operate. [REDACTED]

[REDACTED] medical information [REDACTED]

[REDACTED] She owns 5% of our LLC for ease of transfer and sale in case of my death. Her investments and [REDACTED] medical information [REDACTED] are managed by a Trust. I did in fact receive calls and made calls to my wife during this time but not as a partner. The calls were personal and had to do with [REDACTED] medical information [REDACTED] I accept full responsibility for these calls. I now carry a cell phone and limit all of my calls to that phone.

I do not manage, rent or make daily decisions on any of my investment properties. In rare cases, I become more involved. Single family property management contacts were much higher in the time investigated due to a tenant's death prognosis, and two unexpected move outs. I am a silent, passive multifamily investor which requires no managerial actions. I have responded to investment questions, refinance questionnaires and tax questions related to real estate. I responded during my free time (breaks) and before or after work. I have had investment friends contact me to ask my opinion. My work did not suffer at all during this time however, I no longer open any emails that are not City of Austin Business.

I asked investment colleagues to not email me or call me at work after an ethics class a couple years ago. I also had all of my contact information corrected on an electronic investment list in 2016, leaving only my personal emails and phone numbers. Several investment friends continued to converse with me after the requests and changes. I have had several unwelcomed solicitors contact me at work for refinancing, insurance, investments and related real-estate activities. I try to use my personal emails and home phone for investments but have randomly used AE systems. This will not happen in the future.

My work obligations include enhancing the electrical grid through installing new data, researching system changes, updating the city's land base and improving my system knowledge. The majority of my time is spent updating the electrical grid either through enhancing the existing data or installing new data. [REDACTED] medical information [REDACTED] requires me to focus on my work to make my suggested totals. I update the land base at least once a month, it takes three to five hours to update. I also update customer locations at least once a month the process usually takes three days to complete. The information that I work with is highly technical and it is imperative that my updates are correct.

I assisted in the investigation with honesty and clarity. I have again asked all of my non city colleagues and friends to not contact me on my AE phone or AE email. My 24 years of employment had previously included no investigations, several positive recognitions, a meet or exceeds on my SSPRs and continuous growth in my profession. I have over 150 years of family service to the municipality and my goal is to serve an additional five years. I accept full responsibility for my actions and I should have been more cognizant of City of Austin personnel policies. I now have a total understanding of such policies and that use of the internet during my break times before and after work is absolutely forbidden. I have taken every action possible to demonstrate that I have corrected my behavior in numerous ways to eliminate any future violations.

Appendix B - Office of City Auditor's Response to Subject Response

We have reviewed the Subject Response. We believe our findings stand.

We have redacted the Subject Response to remove medical information.

Appendix C - Management Response



MEMORANDUM

To: Nathan Wiebe, Chief of Investigations, Office of the City Auditor

From: Jackie A. Sargent, General Manager, Austin Energy *JAS*

CC: Mark Dombroski, Deputy General Manager, Austin Energy *MD*
Cindy Steffen, Human Resources Manager, Austin Energy *CS*

Date: June 14, 2017

Subject: Draft Investigation Report (IN 16026) re: Brent Curry

Austin Energy (AE) is in receipt of the draft investigation report regarding allegations against AE employee IT Geospatial Analyst Sr. Brent Curry of Misuse of City time and resources to operate his secondary employment business. Our AE Human Resources division will collaborate with AE management to review the report and findings to determine the appropriate next steps in this matter.

Our response will include a comprehensive review of AE and City policies and procedures related to Outside Employment and Use of City Resources. AE will communicate expectations to all AE employees regarding the proper reporting and approvals necessary to engage in Outside Employment as well as Use of City Resources. Further, AE will evaluate and strengthen controls to ensure departmental compliance with the aforementioned policies.

Should you need additional information, please contact Human Resources Manager Cindy Steffen at 512-322-6249.

The City of Austin is committed to compliance with the Americans with Disabilities Act (ADA). Reasonable modifications and equal access to communications will be provided upon request.

Investigation Criteria

City Code § 2-7-62 – STANDARDS OF CONDUCT – (J)

“No City official or employee shall use City facilities, personnel, equipment or supplies for private purposes, except to the extent such are lawfully available to the public.”

Administrative Bulletin 98-06: Acceptable Internet Use

“The City of Austin computer use, e-mail, and/or Internet access may not be used to: [...] Conduct or promote [...] private/personal business enterprises [...]”

City Personnel Policy – (G) Use of City Resources

“Employees are prohibited from using City facilities, equipment, supplies, employee time, or any other City resource for personal use, except to the extent that such resources are available to the public. City resources which may not be used by employees for personal use include, but are not limited to, the following: computers, internet accounts, e-mail and voice mail systems, telephones, facsimile machines, copiers, postage machines, vehicles, office space, desks, and filing cabinets. These resources are dedicated to City business, and City Management shall have full access to both the resources and any contents thereof at all times. Employees have no legitimate expectation of privacy when using these resources. Department Directors may allow employees limited use of telephones for local calls while ensuring that the operational needs of the department are being met.”

Methodology

To accomplish our audit objectives, we performed the following steps:

- reviewed applicable City Code and policy;
- analyzed City email data using keyword searches;
- analyzed subject's City phone records;
- conducted background research;
- reviewed state records and records from Travis Central Appraisal District;
- conducted a forensic review of subject's computer files and usage;
- conducted interviews with employees in Austin Energy; and
- interviewed the subject.

CAIU Investigative Standards

Investigations by the Office of the City Auditor are considered non-audit projects under the Government Auditing Standards and are conducted in accordance with the ethics and general standards (Chapters 1-3), procedures recommended by the Association of Certified Fraud Examiners (ACFE), and the ACFE Fraud Examiner's Manual. Investigations conducted also adhere to quality standards established by the Council of the Inspectors General on Integrity and Efficiency (CIGIE), Quality Standards for Investigations, and City Code.

The Office of the City Auditor, per City Code, may conduct investigations into fraud, abuse, or illegality that may be occurring. If the City Auditor, through the Integrity Unit, finds that there is sufficient evidence to indicate that a material violation of a matter within the office's jurisdiction may have occurred, the City Auditor will issue an investigative report and provide a copy to the appropriate authority.

In order to ensure our report is fair, complete, and objective, we requested responses from both the subject and the Department Director on the results of this investigation. Please find attached these responses in Appendix A and C.

The Office of the City Auditor was created by the Austin City Charter as an independent office reporting to City Council to help establish accountability and improve city services. We conduct investigations of allegations of fraud, waste, or abuse by City employees or contractors.

City Auditor

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